

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

NUCLEAR DEVELOPMENT LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 5:18-CV-01983-LCB
	)	
TENNESSEE VALLEY	)	<b>UNOPPOSED</b>
AUTHORITY,	)	
	)	
Defendant.	)	

**DEFENDANT’S UNOPPOSED\* MOTION TO CONTINUE TRIAL  
SETTING**

Defendant Tennessee Valley Authority (“TVA”) moves to continue the trial of this action, which is currently set to begin on March 29, 2021, for at least 21 days. In support of this motion, TVA offers the following grounds:

1. As indicated in TVA’s prior notice (Doc. 126), TVA’s lead trial counsel Matthew Lembke has another case set for trial in the Circuit Court of Shelby County, Alabama, on March 30, 2020.
2. Mr. Lembke learned this week that an arbitration hearing in a matter which is pending before the American Arbitration Association has been rescheduled for the period March 18–26, 2021. While Mr. Lembke is not going to participate as an advocate at the hearing in the matter because he is a necessary witness who will testify at that hearing, he expects to be involved in other behind-the-scenes activities

as a lawyer for the respondents throughout that arbitration. That would make preparation for the trial in this matter very difficult.

3. The current trial setting occurs during the week leading up to Easter. TVA's trial representative, who is also a witness in the matter, has informed TVA that he cannot be available on Thursday or Friday of that week due to personal religious observation during Holy Week.

4. TVA is unaware of any conflicts that it has between April 19, 2021, and May 19, 2021.

5. \*Nuclear Development requested that the following statement be included in this motion: Nuclear Development has no issue with the current trial start date of March 29, 2021, and its representatives and live witnesses have made themselves available to appear at that time. Notwithstanding, Nuclear Development does not oppose TVA's motion to continue where it is based on unavoidable conflicts. If this trial date is to be rescheduled, Nuclear Development requests a telephonic conference with the Court to discuss potential dates so as to avoid additional conflicts that either side may be aware of at the time of such conference. Keeping in mind the need for resolution of this matter, Nuclear Development will cooperate with the Court's calendar to the fullest extent possible.

WHEREFORE, PREMISES CONSIDERED, TVA requests that this Court continue the current trial setting for at least 21 days.

Respectfully submitted this 27th day of January, 2021.

s/ Matthew H. Lembke  
Attorney for Defendant

OF COUNSEL:

Matthew H. Lembke  
Riley McDaniel  
BRADLEY ARANT BOULT CUMMINGS LLP  
1819 Fifth Avenue North  
Birmingham, Alabama 35203-2119  
Telephone: (205) 521-8000  
Facsimile: (205) 521-8800  
mlembke@bradley.com  
rmcdaniel@bradley.com

David D. Ayliffe  
Jill McCook  
Office of the General Counsel  
TENNESSEE VALLEY AUTHORITY  
400 West Summit Hill Drive, WT6  
Knoxville, Tennessee 37902  
Telephone: (865) 632-3052  
ddayliffe@tva.gov  
jemccook@tva.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on January 27, 2021, a true and correct copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record:

Caine O'Rear, III  
HAND ARENDALL HARRISON SALE, LLC  
Post Office Box 123  
Mobile, Alabama 36601  
corear@handarendall.com

Edward Shane Black  
HAND ARENDALL LLC  
102 South Jefferson Street  
Athens, Alabama 35611  
sblack@handarendall.com

Larry David Blust  
HUGHES SOCOL PIERS RESNICK DYM, LTD.  
70 West Madison Street, Suite 4000  
Chicago, Illinois 60602  
lblust@hsplegal.com

*s/ Matthew H. Lembke*

OF COUNSEL